

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JOSE CARLOS OLIVEIRA,

8:13CV147

Petitioner,

v.

**MEMORANDUM
AND ORDER**

COUNTY ATTORNEY, and
UNITED STATES ATTORNEY
FOR THE DISTRICT OF
NEBRASKA,

Defendants.

This matter is before the court on Plaintiff's Motion for Voluntary Dismissal. (Filing No. [9](#).) Pursuant to [Fed. R. Civ. P. 41](#), a plaintiff may dismiss an action by filing a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment, or by filing a stipulation of dismissal signed by all parties who have appeared. [Fed. R. Civ. P. 41\(a\)\(1\)](#). In addition, a court may grant a request for voluntary dismissal "on terms that the court considers proper." [Fed. R. Civ. P. 41\(a\)\(2\)](#).

Plaintiff filed his Motion for Voluntary Dismissal on August 28, 2013. (Filing No. [9](#).) In his Motion, Plaintiff states that his "Complaint was filed in error, and for the reason that Plaintiff is in the custody of the State of Nebraska for murder." ([Id.](#) at CM/ECF p. 1.) Plaintiff is proceeding *pro se* in this matter and the Motion for Voluntary Dismissal was filed by and through Plaintiff's counsel in a separate proceeding. ([Id.](#) at CM/ECF p. 2.) Plaintiff has personally signed the Motion, but it is not notarized. ([Id.](#))

In light these findings, and out of an abundance of caution, the court will provide Plaintiff until October 24, 2013, to object to dismissal. If an objection is not

filed, the court will grant his Motion for Voluntary Dismissal and this matter will be dismissed without prejudice.

IT IS THEREFORE ORDERED that:

1. Plaintiff shall have until October 24, 2013, to file an objection to the dismissal of this matter.

2. The Clerk of the court is directed to set a pro se case management deadline in this matter with the following text: October 24, 2013: Deadline for Plaintiff to file objection.

DATED this 9th day of October, 2013.

BY THE COURT:

s/ John M. Gerrard
United States District Judge

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